

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 3773
OFFERED BY MR. CONYERS OF MICHIGAN**

Page 2, strike lines 10 through 18 and insert the following:

1 “SEC. 105A. (a) FOREIGN TO FOREIGN COMMUNICA-
2 TIONS.—

3 “(1) IN GENERAL.—Notwithstanding any other
4 provision of this Act, a court order is not required
5 for electronic surveillance directed at the acquisition
6 of the contents of any communication between per-
7 sons that are not known to be United States persons
8 and are reasonably believed to be located outside the
9 United States for the purpose of collecting foreign
10 intelligence information, without respect to whether
11 the communication passes through the United States
12 or the surveillance device is located within the
13 United States.

14 “(2) TREATMENT OF INADVERTENT INTERCEP-
15 TIONS.—If electronic surveillance referred to in
16 paragraph (1) inadvertently collects a communica-
17 tion in which at least one party to the communica-
18 tion is located inside the United States or is a

1 United States person, the contents of such commu-
2 nication shall be handled in accordance with mini-
3 mization procedures adopted by the Attorney Gen-
4 eral that require that no contents of any commu-
5 nication to which a United States person is a party
6 shall be disclosed, disseminated, or used for any pur-
7 pose or retained for longer than 7 days unless a
8 court order under section 105 is obtained or unless
9 the Attorney General determines that the informa-
10 tion indicates a threat of death or serious bodily
11 harm to any person.

Page 3, line 16 strike "**COMMUNICATING WITH**"
and insert "**COMMUNICATING WITH PERSONS**".

Page 6, line 20, strike "APPLICATION.—Not later
than" and insert the following: "APPLICATION; AP-
PEALS.—

"(1) REVIEW OF APPLICATION.—Not later than

Page 6, line 24, redesignate paragraph (1) as sub-
paragraph (A).

Page 7, line 4, redesignate paragraph (2) as sub-
paragraph (B).

Page 7, line 8, redesignate paragraph (3) as sub-
paragraph (C).

Page 7, after line 14 insert the following:

- 1 “(2) TEMPORARY ORDER; APPEALS.—
2 “(A) TEMPORARY ORDER.—A judge deny-
3 ing an application under paragraph (1) may, at
4 the application of the United States, issue a
5 temporary order to authorize an acquisition
6 under section 105B in accordance with the ap-
7 plication submitted under subsection (a) during
8 the pendency of any appeal of the denial of
9 such application.
10 “(B) APPEALS.—The United States may
11 appeal the denial of an application for an order
12 under paragraph (1) or a temporary order
13 under subparagraph (A) in accordance with sec-
14 tion 103.

Page 8, line 19, strike “and”.

Page 8, after line 22 insert the following:

- 15 “(iii) a certification stating that the
16 acquisition is authorized under this section
17 and that all requirements of this section
18 have been met; and”.

Page 14, line 2, strike “ASSISTANCE.—Pursuant to”
and insert the following: “ASSISTANCE.—

“(1) DIRECTIVE.—Pursuant to

Page 14, line 9, redesignate paragraph (1) as subparagraph (A).

Page 14, line 16, redesignate paragraph (2) as subparagraph (B).

Page 14, line 19, strike the quotation mark and the second period.

Page 14, after line 19 insert the following:

1 “(2) PARAMETERS; CERTIFICATIONS.—The At-
2 torney General shall provide to any person directed
3 to provide assistance under paragraph (1) with—
4 “(A) a document setting forth the param-
5 eters of the directive;
6 “(B) a certification stating that—
7 “(i) the emergency authorization has
8 been issued pursuant to this section;
9 “(ii) all requirements of this section
10 been met;
11 “(iii) a judge has been informed of
12 the emergency authorization in accordance
13 with subsection (b)(2); and
14 “(iv) an application will be submitted
15 in accordance with subsection (a); and

1 “(C) a certification that the recipient of
2 the directive shall be compensated, at the pre-
3 vailing rate, for providing information, facilities,
4 or assistance pursuant to such directive.”.

Page 31, line 2, strike “Protect America Act” and
insert “Protect America Act of 2007”.

At the appropriate place in the bill insert the fol-
lowing new section:

5 **SEC. ____.** **CERTIFICATION TO COMMUNICATIONS SERVICE**
6 **PROVIDERS THAT ACQUISITIONS ARE AU-**
7 **THORIZED UNDER FISA.**

8 (a) **AUTHORIZATION UNDER SECTION 102.**—Section
9 102(a) of the Foreign Intelligence Surveillance Act of
10 1978 (50 U.S.C. 1802(a)) is amended by striking “fur-
11 nishing such aid” and inserting “furnishing such aid and
12 shall provide such carrier with a certification stating that
13 the electronic surveillance is authorized under this section
14 and that all requirements of this section have been met”.

15 (b) **AUTHORIZATION UNDER SECTION 105.**—Section
16 105(c)(2) of such Act (50 U.S.C. 1805(c)(2)) is amend-
17 ed—

18 (1) in subparagraph (C), by striking “; and”
19 and inserting “;”;

1 (2) in subparagraph (D), by striking “aid.” and
2 inserting “aid; and”; and

3 (3) by adding at the end the following new sub-
4 paragraph:

5 “(E) that the applicant provide such car-
6 rier, landlord, custodian, or other person with a
7 certification stating that the electronic surveil-
8 lance is authorized under this section and that
9 all requirements of this section have been
10 met.”.

At the appropriate place in the bill insert the fol-
lowing new section:

11 **SEC. ____ . STATUTE OF LIMITATIONS.**

12 (a) IN GENERAL.—Section 109 of the Foreign Intel-
13 ligence Surveillance Act of 1978 (50 U.S.C. 1809) is
14 amended by adding at the end the following new sub-
15 section:

16 “(e) STATUTE OF LIMITATIONS.—No person shall be
17 prosecuted, tried, or punished for any offense under this
18 section unless the indictment is found or the information
19 is instituted not later than 10 years after the commission
20 of the offense.”.

21 (b) APPLICATION.—The amendment made by sub-
22 section (a) shall apply to any offense committed before the
23 date of the enactment of this Act if the statute of limita-

1 tions applicable to that offense has not run as of such
2 date.

At the appropriate place in the bill insert the following new section:

3 **SEC. ____ . NO RIGHTS UNDER THE RESTORE ACT FOR UN-**
4 **LAWFUL RESIDENTS.**

5 Nothing in this Act or the amendments made by this
6 Act shall be construed to prevent lawfully conducted surveillance of or grant any rights to an alien not lawfully
7 permitted to be in or remain in the United States.
8